

11 July 1977

MEMORANDUM FOR: Director of Personnel

STATINTL

FROM:

[REDACTED]
DDO/SIA/TC

SUBJECT: Eligibility for Retroactive Pay under
the Provisions of U.S. Comptroller
General's Decision (B-183086)

1. I believe that I am eligible for some retroactive pay under the provisions of the U.S. Comptroller General's decision (B-183086).

2. In March 1976 the U.S. Comptroller General's Office issued decision B-183086 ruling that government employees are entitled to retroactive, temporary promotions and backpay when detailed over-long to higher grade jobs. The decision held that failure to grant temporary promotions for over-long detail cases is "an unjustified or unwarranted personnel action" requiring retroactive pay under provisions of the 1970 Back Pay Act. I presume that the Agency is subject to U.S. Comptroller General's decision B-183086, and so I herewith submit my claim for backpay under that ruling.

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3. The facts are as follows: In June 1973, while assigned to the [REDACTED] of the Counterintelligence Staff of the DO, I was detailed to the newly-created Evaluations Group of the DO Plans Staff. At the time of the detail, I was a GS-12 step 3 and was assigned to a grade GS-14 position. I performed my newly-assigned duties in the GS-14 position from June 1973 to September 1975, a period of approximately two years and three months. During that time all my fitness reports were rated an overall "strong" and I was twice recommended for promotion. Despite the strong fitness reports and promotion recommendations, I was not promoted during my over two-year tenure in that group and left it as a GS-12 in September 1975.

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4. Since September 1975 I have been assigned to the [REDACTED] of the DO Staff for International Activities [REDACTED] where [REDACTED] STATINTL

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I have also been in a GS-14 position. My fitness reports in this branch have all been rated "strong" and I have also been recommended for promotion.

5. Written evidence of my detail to a grade GS-14 position in the Evaluations Group of the DO Plans Staff and the period of my tenure in that position can readily be found in my personnel file and in the narrative portions of the fitness reports I received while I was with the Evaluations Group. Should this evidence be deemed insufficient, I will secure statements from co-workers and Agency officials to substantiate my claim.

6. Please advise me regarding the Agency's policy on this matter and also of any additional administrative procedures which may be required in fulfillment of my claim. I may be contacted at extension 5350, Room 2B00, Headquarters.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional) Eligibility for Retroactive Pay under the Provisions of U.S. Comptroller General's Decision (B-183086)

FROM: [REDACTED] DDO/SIA/IC 2B00, HQS	EXTENSION 5350	NO.
	DATE 12 July 1977	

TO: (Officer designation, room number, and building)	DATE		OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
	RECEIVED	FORWARDED		
1. Director of Personnel Rm. 5E58, HQS (Mailing Address: 5E13)	14 Jul 1977		bc	
2. DD Pers / POC	7/18		JH	
3. [REDACTED]				
4. [REDACTED]				
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PERS 77-2573

2 AUG 1977

STATINTL

MEMORANDUM FOR: [REDACTED] Office of Logistics

VIA : Director of Logistics

FROM : F. W. M. Jarney
Director of Personnel

SUBJECT : Claim Based on Detail Assignment

STATINTL

REFERENCES : (a) Mr. [REDACTED] memo dtd 21 Apr 77, subj:
"Claim Based on Illegal Detail"

(b) Comp Gen Decisions B 183086 and B 184990

1. We apologize for the delay in responding to your request for a review of your assignment to a higher grade position during your tour with the Soviet Bloc Division. As you were advised by telephone, the original OGC opinion on this matter was being reviewed. The OGC opinion 76-6048 dated 1 November 1976 has now been reaffirmed, and attached is a precis of that opinion for your information.

2. The matter of assignment of personnel to positions graded higher than the grade of the incumbent without promotion was the subject of extensive review by the Office of the General Counsel at the time the Comptroller General issued the B 183086 and B 184990 decisions. After a thorough study of the decisions and the regulations and law on which the decisions are based, the OGC concluded that these decisions do not apply to Agency positions or personnel. The Civil Service Commission regulations involved in the Comptroller General decisions are not directly applicable to Agency employees and the Agency has no regulations of its own which mandate procedures comparable to the CSC regulations. The promotion policy of the Agency is described in [REDACTED] Paragraph a(1) specifies that 'promotion is based on merit' with the primary assessment mechanism 'of comparative evaluation of employees in a particular grade and/or function'. [REDACTED] specifically provides for assignments to positions of higher grade.

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3. Your claim for retroactive pay for the period you were assigned as a GS-13 in a GS-14 position is therefore denied insofar as it is based on the Comptroller General decisions B 183086 and B 184990. If you have further questions in this regard, feel free to contact my office.

(S) F. W. M. Janney

F. W. M. Janney

Att.

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STATINTL OP/P&C/RS/[REDACTED]:kj (29 Jul 77)